

OGC Has Reviewed

OGC 60-0806

Approved For Release 2001/08/30 : CIA-RDP68-00140R000100010005-5

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27 June 1960

MEMORANDUM FOR: Deputy Director (Support)

Attn: [REDACTED]

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SUBJECT: Temporary Lodging Portion, Home Service Transfer Allowance

- REFERENCES:
- (a) Section 252.22, "Temporary Lodging Portion, Home Service Transfer Allowance," Standardized Regulations (Government Civilians, Foreign Areas).
 - (b) Section III, "Home Service Transfer Allowance," [REDACTED] titled Standardized Allowances.
 - (c) OGC Memorandum, "Home Service Transfer Allowance" dated 23 October 1956.

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1. Question has been raised by Agency employees and by the Office of Personnel concerning the definition and proper application of standards established in the Standardized Regulations with regard to payment of the temporary lodging portion of the Home Service Transfer Allowance. The Standardized Regulations provide in part at Section 252.22:

" . . . The grant, or grants, may cover periods during which the employee, or member of his family, incurred expenses for temporary lodging at his post within a time-range beginning 30 calendar days prior to the employee's entrance on duty and ending 30 calendar days after his entrance on duty; "

The reasoning and arguments advanced in support of the claims herein discussed, where temporary lodging expenses have been incurred at a time in excess of 30 days prior to entrance on duty at headquarters, have been sufficiently numerous and varied as to indicate a need for examination.

2. The first two cases outlined below were brought to our attention by the Chief, Tax and Allowance Staff, Finance Division, and have been discussed with each of the claimants. The considerations advanced by each on his own behalf (and on behalf of others who find themselves in a similar situation), are indicated below. The basic fact situation of the third case has also been relayed informally to us. The fourth case has been given active consideration by the Office of Personnel. The propositions advanced by claimant and a possible approach for solution, which is

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considered by the Office of Personnel, are noted in turn. These four cases are as follows:

(a) [redacted] home leave point was Washington, D. C. He incurred most of his temporary lodging expense prior to 30 days before returning to duty at headquarters.

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[redacted] provides that the 30-day period for which an individual may be reimbursed for expenses incurred for temporary lodging for himself and his family must fall within the 60-day period which begins 30 days before the individual's entrance on duty at his new post in the United States and ends 30 days after his entrance on duty (Section 4b(2)), that he as an individual and others returning from the field, based the action taken with regard to temporary lodging expenses on the provisions of [redacted]

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By his notes [redacted] indicated that the advice and guidance available to him at the time was contained in Section III, [redacted] and that it was there indicated:

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"The temporary lodging . . . is based . . . at hotels or other temporary lodgings ordinarily used by employees arriving at a PCS post of assignment in our country. This portion shall continue for a period of 30 days if the individual's dependents accompany him (or 15 if not). . . ."

With regard to the question presented, in effect by [redacted] that the term "entrance on duty" at a post might be construed to mean "arrival at a post," and so allow reimbursement for the expenses incurred within 30 days after arrival in the Washington area, representatives of Finance Division have noted that OGC advised under date of 23 October 1956 that the "entrance on duty" date (EOD) "for purposes of the Home Service Transfer Allowance is the date upon which the individual returns to Washington for PCS following home leave."

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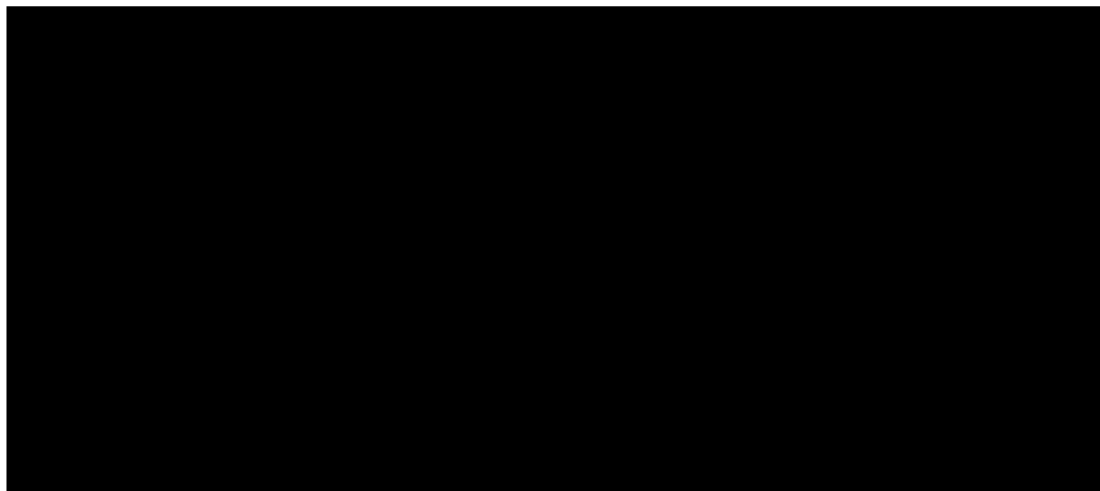
The Finance representatives also noted another argument that had been presented to them that since employees of this Agency are not entitled to "home leave," but merely to travel reimbursement to their home leave points, the "date of arrival" should govern. All leave is charged to annual leave. It was felt by various claimants that this reasoning should apply particularly in those instances where an employee takes home leave locally in the Washington area. The question was presented in addition that if the arrival date may not be used, whether a different result might be achieved if the employee who was to go on leave in the Washington area were to report in to his new office for one day upon arrival in Washington in order to settle his travel accountings before continuing on extended leave.

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(b) [REDACTED] arrived in Washington, D. C., on 20 July 1959 after "home leave" in Florida, 9-18 July. He incurred temporary lodging expenses for the period 20-28 July. He returned to duty 25 August. It was requested that in accordance with the finding contained in the OGC opinion of 23 October 1956 noted above, the date 20 July, the date of the arrival back in Washington from Florida, be utilized in determining eligibility for the temporary lodging portion of the Home Service Transfer Allowance rather than the date 25 August, the day on which he returned to duty, in order that reimbursement might be granted for all, rather than part of the temporary lodging expenses incurred.

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(d) [REDACTED] arrived in Washington on 24 October 1959 from the Far East. Upon arrival he and his dependents obtained temporary living quarters for a period of ten days. Upon completion of leave on 21 December, he reported for duty.

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[REDACTED] states that upon arrival in Washington on 24 October, he contacted the Far East Division. He advised the contact of his whereabouts and that he would be on annual leave until 21 December.

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In his request for review and payment under Section 9a, Agency [REDACTED] noted in part, that he was not advised before leaving the field of any restrictions on temporary lodging other than that reimbursement of not more than \$12 per day for a maximum of not more than 30 days would be allowed. By his memorandum he also pointed out that he was not furnished with a copy of the personnel regulation covering temporary lodging; that "In effect, the regulation on this allowance was changed while I was enroute to Washington, D. C., and I was never given any notice of this, although on 24 October 1959, I reported officially to FE Division"; and that

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his claim for reimbursement for temporary lodging was not disallowed as a questionable item but because of the technical point that it was not within the 30-day period "before the individual's entrance on duty."

By a proposed memorandum for the FE Division which was provided for our comment, the Office of Personnel suggests as a basis for approval of [REDACTED] claim that "The legal requirement is met by physical presence at the duty station and contact with the appropriate administrative office to advise of availability for duty as required." The memorandum concludes:

"In view of the preceding, if the Chief of the Far East Division verifies the facts presumed herein and concurs that [REDACTED] constructively entered on duty on 24 October 1959, the Office of Personnel will officially record such action and so notify [REDACTED] and the Finance Division."

3. The Home Service Transfer Allowance is a cost-of-living allowance granted to an employee pursuant to Section 901(2)(11) of the Foreign Service Act Amendments of 1955, for extraordinary and necessary expenses deemed incident to the establishment of his residence at a post in the Continental United States between assignments to posts abroad. Executive Order 10100, dated 20 June 1949, authorizes the Director of CIA to pay allowances conforming to those granted by the Secretary of State in accordance with the regulations prescribed in Executive Order 10011, and prescribe such further regulations as he may deem necessary to effectuate the purposes of the Order. [REDACTED] Standardized Allowances, incorporates Section 252 "Home Service Transfer Allowances," of the Standardized Regulations (Government Civilians, Foreign Areas), in paragraph I and provides in paragraph 3 as follows:

"a. Provided all applicable eligibility criteria are met the Home Service Transfer Allowance will be granted to staff employees and staff agents." (underlining added).

The time-range governing the period of grant or grants is set forth in Section 252.22 of the Standardized Regulations. That section provides in part "... 30 calendar days prior to the employee's entrance on duty and ending 30 calendar days after his entrance on duty." It is further provided that "where an employee is already at the post to which he is transferred, or has not yet entered on duty as the result of medical treatment, the effective date of transfer, rather than the date of entrance on duty, shall govern." As is indicated by the regulation and has been consistently applied by the Department of State and this Agency, "entrance on duty" means reporting in to work at the regularly assigned tasks of the individual's current assignment. Such a reporting in for work is routinely recorded and reflected on the Agency Time and Attendance Record.

4. It was noted by one claimant that his claim for reimbursement for temporary lodging was not disallowed as a questionable item, but

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because of the technical point that it was not within the 30-day period before his entrance on duty. The condition established by the regulation with regard to the time-range governing the period of grant, is a basic condition of eligibility. Such requirements are not properly construed as mere technicalities. Failure to meet such requirements constitutes failure to establish eligibility for consideration of the claim submitted.

5. In keeping with the foregoing, this office would confirm the opinion of the Finance Division and the area division B & F office that each of the cases indicated were properly denied. Even though the details of the Standardized Regulations were not repeated [REDACTED] the applicability of the Standardized Regulation was clearly indicated at paragraph 1 of each of the several Field Issuances.

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6. It is the opinion of this office that a momentary contact with a division representative would not suffice to meet the requirement of reporting for duty. Although not necessary to the determination of the foregoing cases, it is also our opinion that reporting in for one day in order to settle travel accountings before continuing on extended leave would also not meet the requirement of the Standardized Regulation. Such reporting in would be little different than the TDY which is most often directed upon arrival in the United States after overseas assignment.

7. One claim was presented by review under the authorities contained in Section 9a of Headquarters Regulation [REDACTED] Obligation and Expenditure of Funds. That section provides:

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"a. GENERAL EXPENDITURE

When authority is not otherwise specifically provided in Agency regulations the Deputy Director (Support) may take final action on any matter arising out of the unusual functions of this Agency and involving the expenditure of confidential funds, if the expenditure involved in each matter does not exceed \$2,500. The term 'unusual functions' as used herein is intended to differentiate the extraordinary problems of this Agency from the normal administrative or operating problems confronting the ordinary Government agency. (underscoring added).

8. It is the opinion of this office that a claim for temporary lodging portion, Home Service Transfer Allowance, does not meet the criteria established in Section 9a for determination by the Deputy Director Support. Provision is made for travel benefits and travel allowances in Agency Regulations with a certain degree of particularity.

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